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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-36863-2022

Date of decision : 22.08.2022

Harpal Masih @ Gopi

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sartaj Singh Thakur, Advocate for the petitioner.

Mr. P.S. Grewal, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 01.06.2022 passed by the Sessions Judge, Hoshiarpur in FIR No.123 dated 19.06.2021 registered under Section 379-B of the Indian Penal Code, 1860 at Police Station Mukerian, District Hoshiarpur, whereby non-bailable warrants of arrest have been issued against the petitioner.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was arrested in the abovementioned FIR on 19.06.2021 and was released on regular bail by this Court vide order dated 21.09.2021. It is further submitted that the petitioner was appearing before the Court and compromise had also been effected between the parties as is

apparent from affidavit (Annexure P-2) and thereafter, the petitioner alongwith co-accused even filed a petition for quashing of FIR on the basis of compromise and vide order dated 08.03.2022, the parties were directed to record their statements. However, since, in the meanwhile, Rajinder Kumar had gone abroad, thus, although, statement of wife of Rajinder Kumar was recorded by the trial Court but FIR could not be quashed. It is contended that the petitioner had lastly appeared on 24.05.2022 before the trial Court and could not appear on 01.06.2022 as the petitioner was under the impression that the compromise has been effected and the matter would be closed. It is further contended that now the case is fixed for 24.08.2022 and the petitioner would appear before the trial Court within a period of seven days from today and also undertakes to appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. It is argued that on 01.06.2022, no prosecution witness was present and thus, no delay has been caused to the trial.

On the other hand, learned State Counsel has opposed the present petition and has submitted that the petitioner was aware about the said proceedings and had not appeared on 01.06.2022, thus, the impugned order had rightly been passed.

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, the petitioner was granted bail on 21.09.2021 and a perusal of order dated 08.03.2022 (Annexure P-4) would show that the petitioner alongwith his co-accused had filed a petition under Section 482 of Cr.P.C. for quashing of FIR on the basis of compromise and

in the said order, the presence of counsel for respondent No.2 has also been recorded who has admitted the fact with respect to compromise. It is the case of the petitioner that respondent No.2 had gone abroad and thus, the said petition has not been allowed as yet. A perusal of order dated 01.06.2022 would show that no prosecution witness was present on the said date and thus, no delay was caused to the trial. A perusal of FIR would also show that the allegations against the petitioner and co-accused are that they had snatched Rs.2500/-.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court within a period of seven days from today and to also appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 01.06.2022 (Annexure P-5) is set aside subject to the petitioner appearing before the trial Court within a period of seven days from today and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioner depositing an amount of Rs.5000/- within the stipulated time with the trial Court, which would be paid to the complainant/respondent No.2 or his authorized representative by the trial Court and would also be subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is specifically exempted by the

Court.

In this case, notice has not been issued to respondent No.2 as the issuance of same would only further delay the matter and respondent No.2 would also have to entail expenses in defending the present petition and since the main purpose is to make the petitioner appear before the trial Court, thus, the present petition is disposed of without issuance of notice to complainant/respondent No.2. At any rate, since respondent No.2 is the complainant in the FIR proceedings, thus, compensation has been directed to be paid to respondent No.2.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the stipulated period, then the present petition would be deemed to have been dismissed.

22.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No